Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 78

SENATE BILL 1301

AN ACT

AMENDING SECTIONS 32-1901, 32-1905, 32-1922, 32-1924, 32-1925, 32-1926, 32-1927, 32-1931, 32-1932, 32-1932.01, 32-1933, 32-1934, 32-1936, 32-1963.01, 32-1964, 32-1968, 32-1969 AND 32-1996, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 18, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-1923.01 AND 32-1927.01; RELATING TO THE STATE BOARD OF PHARMACY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1901, Arizona Revised Statutes, is amended to read:

32-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Administer" means the direct application of a controlled substance, prescription-only drug, dangerous drug or narcotic drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by a practitioner or by ~~his~~ THE PRACTITIONER'S authorized agent or the patient or research subject at the direction of the practitioner.

2. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or ~~which~~ THAT are likely to induce, directly or indirectly, the purchase of drugs, devices, poisons or hazardous substances.

3. "Antiseptic", ~~when~~ IF a drug is represented as such on its label, ~~shall be considered to be~~ MEANS a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment or dusting powder or ~~such~~ other use ~~as~~ THAT involves prolonged contact with the body.

4. "Authorized officers of the law" means legally empowered peace officers, compliance officers of the state board of pharmacy and agents of the division of narcotics enforcement and criminal intelligence of the department of public safety.

5. "Board" or "board of pharmacy" means the Arizona state board of pharmacy.

6. "Color additive" means a material ~~which~~ THAT either:

(a) Is any dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from any vegetable, animal, mineral or other source.

(b) If added or applied to a drug, or to the human body or any part of the human body, is capable of imparting color, except that color additive does not include any material ~~which~~ THAT has been or may be exempted under the federal act. Color includes black, white and intermediate grays.

7. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug ~~or a device~~ by a pharmacist or ~~a practitioner as an incident to administering or dispensing a drug in the course of the pharmacist's professional practice or by an authorized agent of a licensed practitioner,~~ AN INTERN OR PHARMACY TECHNICIAN under the pharmacist's supervision, for the purpose of ~~or as an incident to research, teaching or chemical analysis and not for sale or~~ dispensing. ~~—~~ TO A PATIENT BASED ON A VALID PRESCRIPTION ORDER. Compounding includes the preparation of drugs ~~or devices~~ in anticipation of ~~prescriptions~~ PRESCRIPTION ~~or medication~~ orders ~~based~~ PREPARED on routine, regularly observed prescribing patterns and the

preparation of drugs ~~or devices~~ as ~~the result of a practitioner order or initiative~~ AN INCIDENT TO RESEARCH, TEACHING OR CHEMICAL ANALYSIS OR FOR ADMINISTRATION BY A MEDICAL PRACTITIONER TO THE MEDICAL PRACTITIONER'S PATIENT AND NOT FOR SALE OR DISPENSING. Compounding does not include the preparation of commercially available products from bulk compounds or the preparation of drugs ~~or devices~~ for sale to pharmacies, practitioners or entities for the purpose of dispensing or distribution.

8. "Compressed medical gas distributor" means a person who holds a current permit issued by the board to distribute compressed medical gases pursuant to a compressed medical gas order to compressed medical gas suppliers and other entities that are registered, licensed or permitted to use, administer or distribute compressed medical gases.

9. "Compressed medical gas order" means an order for compressed medical gases that is issued by a medical practitioner.

10. "Compressed medical gas supplier" means a person who holds a current permit issued by the board to supply compressed medical gases pursuant to a compressed medical gas order and only to the consumer or the patient.

11. "Compressed medical gases" means gases and liquid oxygen that a compressed medical gas distributor or manufacturer has labeled in compliance with federal law.

12. "Controlled substance" means a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

13. "Corrosive" means any substance ~~which~~ THAT WHEN IT COMES in contact with living tissue will cause destruction of tissue by chemical action.

14. "Counterfeit drug" means a drug ~~which~~ THAT, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness of these, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed that drug.

15. "Dangerous drug" ~~means a dangerous drug as defined~~ HAS THE SAME MEANING PRESCRIBED in section 13-3401.

16. "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another whether or not there is an agency relationship.

17. "Deputy director" means a pharmacist employed by the board and selected by the executive director to perform duties as prescribed by the executive director.

18. "Device", except as used in paragraph 14 of this section, section 32-1965, paragraph 4 and section 32-1967, subsection A, paragraph 15 and subsection C, means instruments, apparatus and contrivances, including their components, parts and accessories, including all such items under the federal act, intended either:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(b) To affect the structure or any function of the human body or other animals.

19. "Direct supervision of a pharmacist" means the pharmacist is present. If relating to the sale of certain items, direct supervision of a pharmacist means that a pharmacist determines the legitimacy or advisability of a proposed purchase of those items.

20. "Director" means the director of the division of narcotics enforcement and criminal investigation of the department of public safety.

21. "Dispense" means to deliver to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare for that delivery.

22. "Dispenser" means a practitioner who dispenses.

23. "Distribute" means to deliver, other than by administering or dispensing.

24. "Distributor" means a person who distributes.

25. "Drug" means:

(a) Articles recognized, or for which standards or specifications are prescribed, in the official compendium.

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in the human body or other animals.

(c) Articles other than food intended to affect the structure or any function of the human body or other animals.

(d) Articles intended for use as a component of any articles specified in subdivision (a), (b) or (c) of this paragraph but does not include devices or their components, parts or accessories.

26. "Drug enforcement administration" means the drug enforcement administration of the United States department of justice or its successor agency.

27. "Drug or device manufacturing" means the production, preparation, propagation or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of substances or labeling or relabeling of its container and the promotion and marketing of the same. Drug or device manufacturing does not include compounding.

28. "Economic poison" means any substance ~~which~~ THAT alone, in chemical combination~~,~~ or in formulation with one or more other substances is a pesticide within the meaning of the laws of this state or the federal insecticide, fungicide and rodenticide act and ~~which~~ THAT is used in the production, storage or transportation of raw agricultural commodities.

29. "Established name", with respect to a drug or ingredient of a drug, means any of the following:

(a) The applicable official name.

(b) If there is no such name and ~~such~~ THE drug or ~~such~~ ingredient is an article recognized in an official compendium, then the official title in an official compendium.

(c) If neither subdivision (a) nor (b) of this paragraph applies, then the common or usual name of such drug.

30. "Executive director" means the executive director of the board of pharmacy.

31. "Federal act" means the federal laws and regulations that pertain to drugs, devices, poisons and hazardous substances and that are official at the time any drug, device, poison or hazardous substance is affected by this chapter.

32. "Full service wholesale permittee" means a permittee who may distribute prescription-only drugs and devices, controlled substances and over-the-counter drugs and devices to pharmacies or other legal outlets from a place devoted in whole or in part to wholesaling these items.

33. "Graduate intern" means a person who has graduated from a college, school or program of pharmacy approved by the board and who meets the qualifications and experience for a pharmacy intern as provided in section 32-1923.

34. "Highly toxic" means any substance ~~which~~ THAT falls within any of the following categories:

(a) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, at a single dose of fifty milligrams or less per kilogram of body weight, when orally administered.

(b) Produces death within fourteen days in half or more than half of a group of ten or more laboratory white rats each weighing between two hundred and three hundred grams, ~~when~~ IF inhaled continuously for a period of one hour or less at an atmospheric concentration of two hundred parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, provided ~~such~~ THE concentration is likely to be encountered by humans ~~when~~ IF the substance is used in any reasonably foreseeable manner.

(c) Produces death within fourteen days in half or more than half of a group of ten or more rabbits tested in a dosage of two hundred milligrams or less per kilogram of body weight, ~~when~~ IF administered by continuous contact with the bare skin for twenty-four hours or less.

If the board finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages or concentrations prescribed in this paragraph, the human data shall take precedence.

35. "Hospital" means any institution for the care and treatment of the sick and injured ~~which~~ THAT is approved and licensed as a hospital by the department of health services.

36. "INTERN" MEANS A PHARMACY INTERN AND A GRADUATE INTERN.

~~36.~~ 37. Internship" means the practical, experiential, hands-on training of a pharmacy intern under the supervision of a preceptor.

~~37.~~ 38. "Irritant" means any substance, other than a corrosive, ~~which~~ THAT on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction.

39. "JURISPRUDENCE EXAMINATION" MEANS A BOARD APPROVED PHARMACY LAW EXAMINATION THAT IS WRITTEN AND ADMINISTERED IN COOPERATION WITH THE NATIONAL ASSOCIATION OF BOARDS OF PHARMACY OR ANOTHER BOARD APPROVED PHARMACY LAW EXAMINATION.

~~38.~~ 40. "Label" means a display of written, printed or graphic matter on the immediate container of any article that, unless easily legible through the outside wrapper or container, also appears on the outside wrapper or container of the article's retail package. ~~In~~ FOR THE PURPOSES OF this paragraph, ~~"~~THE immediate container~~"~~ does not include package liners.

~~39.~~ 41. "Labeling" means all labels and other written, printed or graphic matter either:

(a) On any article or any of its containers or wrappers.

(b) Accompanying that article.

~~40.~~ 42. "Limited service pharmacy" means a pharmacy approved by the board to practice a limited segment of pharmacy as indicated by the permit issued by the board.

~~41.~~ 43. "Manufacture" or "manufacturer" means every person who prepares, derives, produces, compounds, processes, packages or repackages or labels any drug in a place, OTHER THAN A PHARMACY, devoted to manufacturing the drug~~, but does not include a pharmacy~~.

~~42.~~ 44. "Marijuana" ~~means marijuana as defined~~ HAS THE SAME MEANING PRESCRIBED in section 13-3401.

~~43.~~ 45. "Medical practitioner" means any medical doctor, doctor of osteopathy, dentist, podiatrist, veterinarian or other person licensed and authorized by law to use and prescribe drugs and devices for the treatment of sick and injured human beings or animals or for the diagnosis or prevention of sickness in human beings or animals in this state or any state, territory or district of the United States.

46. "MEDICATION ORDER" MEANS A WRITTEN OR VERBAL ORDER FROM A MEDICAL PRACTITIONER OR THAT PERSON'S AUTHORIZED AGENT TO ADMINISTER A DRUG OR DEVICE.

~~44.~~ 47. "Narcotic drug" ~~means narcotic drug as defined~~ HAS THE SAME MEANING PRESCRIBED in section 13-3401.

~~45.~~ 48. "New drug" means either:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling.

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but ~~which~~ THAT has not, other than in ~~such~~ THE investigations, been used to a material extent or for a material time under those conditions.

~~46.~~ 49. "Nonprescription drug" or "over-the-counter drug" means any nonnarcotic medicine or drug that may be sold without a prescription and is prepackaged and labeled for use by the consumer in accordance with the requirements of the laws of this state and federal law. ~~This definition~~ NONPRESCRIPTION DRUG does not include:

(a) A drug that is primarily advertised and promoted professionally to medical practitioners and pharmacists by manufacturers or primary distributors.

(b) A controlled substance.

(c) A drug that is required to bear a label that states "Rx only."

(d) A drug intended for human use by hypodermic injection.

~~47.~~ 50. "Nonprescription drug wholesale permittee" means a permittee who may distribute only over-the-counter drugs and devices to pharmacies or other lawful outlets from a place devoted in whole or in part to wholesaling these items.

~~48.~~ 51. "Notice" means personal service or the mailing of a copy of the notice by certified mail addressed either to the person at the person's latest address of record in the board office or to the person's attorney.

~~49.~~ 52. "Official compendium" means the latest revision of the United States pharmacopeia and the national formulary or any current supplement.

~~50.~~ 53. "Other jurisdiction" means one of the other forty-nine states, the District of Columbia, the Commonwealth of Puerto Rico or a territory of the United States of America.

~~51.~~ 54. "Package" means a receptacle defined or described in the United States pharmacopeia and the national formulary as adopted by the board.

~~52.~~ 55. "Packaging" means the act or process of placing a drug item or device in a container for the purpose or intent of dispensing or distributing the item or device to another.

~~53.~~ 56. "Person" means an individual, partnership, corporation and association, and their duly authorized agents.

57. "PHARMACEUTICAL CARE" MEANS THE PROVISION OF DRUG THERAPY AND OTHER PHARMACEUTICAL PATIENT CARE SERVICES.

~~54.~~ 58. "Pharmacist" ~~or "licentiate in pharmacy"~~ means an individual currently licensed by the board to practice the profession of pharmacy in this state.

~~55.~~ 59. "Pharmacist in charge" means the pharmacist who is responsible to the board for a licensed establishment's compliance with the laws and administrative rules of this state and of the federal government pertaining to the practice of pharmacy, the manufacturing of drugs and the distribution

of drugs and devices. ~~This definition does not relieve other pharmacists or persons from their responsibility to comply with state and federal laws and administrative rules.~~

60. "PHARMACIST LICENSURE EXAMINATION" MEANS A BOARD APPROVED EXAMINATION THAT IS WRITTEN AND ADMINISTERED IN COOPERATION WITH THE NATIONAL ASSOCIATION OF BOARDS OF PHARMACY OR ANY OTHER BOARD APPROVED PHARMACIST LICENSURE EXAMINATION.

~~56.~~ 61. "Pharmacy"~~, "drugstore" or "apothecary"~~ means any ~~premises, laboratory, hospital, area or other~~ place:

(a) Where drugs, devices, poisons or related hazardous substances are offered for sale at retail.

(b) In which the profession of pharmacy is practiced or where prescription orders are compounded and dispensed.

(c) ~~Which~~ THAT has displayed on it or in it the words, "pharmacist," "pharmaceutical chemist," "apothecary," "druggist," "pharmacy," "drugstore," "drugs," "drug sundries" or any of these words or combinations of these words, or words of similar import either in English or any other language, or ~~which~~ THAT is advertised by any sign containing any of these words.

(d) Where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" is exhibited.

(e) ~~"Premises" in this paragraph only refers to the~~ OR A portion of any building or structure leased, used or controlled by the permittee ~~in the~~ TO conduct ~~of~~ the business authorized by the board at the address for which the permit was issued ~~providing the premises shall be~~ AND THAT IS enclosed and secured when a pharmacist is not in attendance.

~~57.~~ 62. "Pharmacy intern" means a person who has all of the qualifications and experience prescribed in section 32-1923.

63. "PHARMACY TECHNICIAN" MEANS A PERSON LICENSED PURSUANT TO THIS CHAPTER.

64. "PHARMACY TECHNICIAN TRAINEE" MEANS A PERSON LICENSED PURSUANT TO THIS CHAPTER.

~~58.~~ 65. "Poison" or "hazardous substance" includes, but is not limited to, any of the following ~~when~~ IF intended and suitable for household use or use by children:

(a) Any substance ~~which~~ THAT, according to standard works on medicine, pharmacology, pharmacognosy or toxicology, ~~when~~ IF applied to, introduced into or developed within the body in relatively small quantities by its inherent action uniformly produces serious bodily injury, disease or death.

(b) A toxic substance.

(c) A highly toxic substance.

(d) A corrosive substance.

(e) An irritant.

(f) A strong sensitizer.

(g) A mixture of any OF the substances described in this paragraph, if the substance or mixture of substances may cause substantial personal

injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(h) A substance designated by the board to be a poison or hazardous substance. This subdivision does not apply to radioactive substances, economic poisons subject to the federal ~~or state~~ insecticide, fungicide and rodenticide act or the state pesticide act, foods, drugs and cosmetics subject to state laws or the federal act or substances intended for use as fuels when stored in containers and used in the heating, cooking or refrigeration system of a house. This subdivision applies to any substance or article ~~which~~ THAT is not itself an economic poison within the meaning of the federal insecticide, fungicide and rodenticide act or the state pesticide act, but ~~which~~ THAT is a poison or hazardous substance within the meaning of this paragraph by reason of bearing or containing ~~such~~ an economic poison or hazardous substance.

~~59.~~ 66. "Practice of pharmacy" means:

(a) ~~The interpretation, and evaluation of~~ INTERPRETING, EVALUATING AND DISPENSING prescription orders IN THE PATIENT'S BEST INTERESTS~~,~~.

(b) ~~The~~ Compounding DRUGS~~,~~ pursuant to or in anticipation of a prescription ~~or drug order, dispensing and~~.

(c) Labeling of drugs and devices~~, the participation~~ IN COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS.

(d) PARTICIPATING in drug selection and drug utilization reviews, DRUG ADMINISTRATION, DRUG OR DRUG RELATED RESEARCH AND DRUG THERAPY MONITORING OR MANAGEMENT.

(e) PROVIDING PATIENT COUNSELING NECESSARY TO PROVIDE PHARMACEUTICAL CARE.

(f) ~~the storage of~~ PROPERLY AND SAFELY STORING drugs and devices~~,~~ IN ANTICIPATION OF DISPENSING.

(g) ~~the maintenance of proper~~ MAINTAINING REQUIRED records of drugs and devices~~, advising clients, if necessary or if regulated, of therapeutic values, content, hazards and use of drugs and devices and the~~.

(h) Offering or performing of acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy ~~but does not include drug or device manufacturing~~.

~~60.~~ 67. "Practitioner" means any physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state, or any pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

~~61.~~ 68. "Preceptor" means a pharmacist who is serving as the practical instructor of ~~a pharmacy~~ AN intern and complies with section 32-1923.

~~62.~~ 69. "Prescription" means~~, according to the context,~~ either a prescription order or a prescription medication.

~~63.~~ 70. "Prescription medication" means any drug, including label and container according to context, ~~which~~ THAT is dispensed pursuant to a prescription order.

~~64.~~ 71. "Prescription-only device" includes:

(a) Any device that is limited by the federal act to use under the supervision of a medical practitioner.

(b) Any device required by the federal act to bear on its label essentially the legend "Rx only".

~~65.~~ 72. "Prescription-only drug" does not include a controlled substance but does include:

(a) Any drug ~~which~~ THAT because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner.

(b) Any drug that is limited by an approved new drug application under the federal act or section 32-1962 to use under the supervision of a medical practitioner.

(c) Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer.

(d) Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Rx only".

~~66.~~ 73. "Prescription order" means either:

(a) An order to a pharmacist for drugs or devices issued and signed by a duly licensed medical practitioner in the authorized course of the practitioner's professional practice.

(b) An order transmitted to a pharmacist through word of mouth, telephone or other means of communication directed by that medical practitioner. Prescription orders received by word of mouth, telephone~~, telegraph~~ or other means of communication shall be ~~recorded in writing~~ MAINTAINED by the pharmacist~~,~~ PURSUANT TO SECTION 32-1964 and the record so made by the pharmacist constitutes the original prescription order to be dispensed by the pharmacist. This paragraph does not alter or affect laws of this state or any federal act requiring a written prescription order.

~~67.~~ 74. "Radioactive substance" means a substance ~~which~~ THAT emits ionizing radiation.

~~68.~~ 75. "Symbol" means ~~any of~~ the characteristic symbols ~~which~~ THAT have HISTORICALLY identified pharmacy ~~for centuries~~, including "show globes", "mortar and pestle" and the sign "Rx".

~~69.~~ 76. "Toxic substance" means a substance, other than a radioactive substance, ~~which~~ THAT has the capacity to produce injury or illness in humans through ingestion, inhalation or absorption through any body surface.

~~70.~~ 77. "Ultimate user" means a person who lawfully possesses a drug or controlled substance for that person's own use, for the use of a member of that person's household or for administering to an animal owned by that person or by a member of that person's household.

~~71.~~ 78. "Unprofessional conduct" means that conduct of a pharmacist or pharmacy intern ~~which~~ THAT degrades or injures the profession of pharmacy as provided in section 32-1927, subsection B, paragraph 3.

Sec. 2. Section 32-1905, Arizona Revised Statutes, is amended to read:

32-1905. Meetings; time and place; annual report

A. The board of pharmacy shall hold meetings ~~for the examination of applicants for licensure~~ TO CONSIDER LICENSE AND PERMIT APPLICATIONS and ~~for the transaction of~~ TO TRANSACT other business legally coming before it. ~~There shall be not less than~~ THE BOARD MUST HOLD AT LEAST four meetings in each fiscal year.

B. The board shall designate the time and place of its meetings ~~for the examination of applicants,~~ at least thirty days ~~prior to~~ BEFORE each meeting.

C. The board shall make an annual written report to the governor and to the Arizona ~~pharmaceutical~~ PHARMACY association ~~of its proceedings, and shall include therein~~, INCLUDING the names of all pharmacists, ~~pharmacy~~ interns, PHARMACY TECHNICIANS, PHARMACY TECHNICIAN TRAINEES, pharmacies, wholesalers and manufacturers authorized to practice under this chapter and a record of licenses, permits and renewals.

Sec. 3. Section 32-1922, Arizona Revised Statutes, is amended to read:

32-1922. Qualifications of applicant; reciprocity; preliminary equivalency examination; honorary certificate; fee

A. ~~Every~~ AN applicant for licensure as a pharmacist shall:

1. Be of good moral character.

2. Be a graduate of a school or college of pharmacy or department of pharmacy of a university recognized by the board or qualify under subsection C.

3. Have successfully completed, as substantiated by proper affidavits, a program of practical experience under the direct supervision of a ~~registered~~ LICENSED pharmacist approved by the board.

4. Pass the ~~examinations~~ PHARMACIST LICENSURE EXAMINATION AND JURISPRUDENCE EXAMINATION approved ~~and administered~~ by the board. ~~An applicant who fails a licensure examination shall pay a fee established by the board before retaking the examination.~~ An applicant who fails an examination three times shall petition the board for permission before retaking the examination. The board shall evaluate the petition and determine whether to require additional educational training before approving each additional retake of the examination.

5. Pay an ~~examination~~ APPLICATION fee ~~that is~~ prescribed by the board of not more than five hundred dollars ~~and that entitles the applicant to one~~

~~sitting of the licensure examination~~. AN APPLICANT FOR RECIPROCAL LICENSURE SHALL PAY THE FEE PRESCRIBED IN SECTION 32-1924, SUBSECTION D.

B. The board may license as a pharmacist, without A PHARMACIST LICENSURE examination, a person who is licensed as a pharmacist by A PHARMACIST LICENSURE examination in some other jurisdiction if that person:

1. Produces satisfactory evidence to the board of having had the required secondary and professional education and training ~~and~~.

2. Is possessed of good morals as demanded of applicants for licensure and relicensure under this chapter.

3. PRESENTS PROOF TO THE BOARD'S SATISFACTION OF INITIAL LICENSURE BY A PHARMACIST LICENSURE EXAMINATION SUBSTANTIALLY EQUIVALENT TO THE PHARMACIST LICENSURE EXAMINATION REQUIRED BY THE BOARD AND THAT THE APPLICANT HOLDS THE LICENSE IN GOOD STANDING.

4. PRESENTS PROOF TO THE BOARD'S SATISFACTION THAT ANY OTHER LICENSE GRANTED TO THE APPLICANT BY ANY OTHER JURISDICTION HAS NOT BEEN SUSPENDED, REVOKED OR OTHERWISE RESTRICTED FOR ANY REASON EXCEPT NONRENEWAL OR FOR FAILURE TO OBTAIN THE REQUIRED CONTINUING EDUCATION CREDITS IN ANY JURISDICTION WHERE THE APPLICANT IS CURRENTLY LICENSED BUT NOT ENGAGED IN THE PRACTICE OF PHARMACY.

5. PASSES A BOARD APPROVED JURISPRUDENCE EXAMINATION.

C. ~~This~~ Subsection B OF THIS SECTION applies only if the jurisdiction in which the person is licensed grants, under like conditions, reciprocal licensure as a pharmacist to a pharmacist licensed by examination in this state.

~~C.~~ D. If an applicant for licensure is a graduate of a pharmacy degree program at a school or college of pharmacy ~~which~~ THAT was not recognized by the board at the time of the person's graduation, the applicant shall pass a preliminary equivalency examination approved by the board in order to qualify to take the ~~examination~~ EXAMINATIONS prescribed in subsection A OF THIS SECTION.

~~D.~~ E. The preliminary equivalency examination required pursuant to subsection ~~C~~ D OF THIS SECTION shall cover proficiency in English and academic areas the board deems essential to a satisfactory pharmacy curriculum.

~~E.~~ F. An applicant who fails the preliminary equivalency examination required pursuant to subsection ~~C~~ D OF THIS SECTION shall not retake the preliminary equivalency examination until the applicant files written proof with the board that the applicant has completed additional remedial academic work previously approved by the board to correct deficiencies in the applicant's education ~~which~~ THAT were indicated by the results of the applicant's last preliminary equivalency examination.

~~F.~~ G. ~~Pharmacists~~ A PHARMACIST who ~~have~~ HAS been licensed in this state for at least fifty years shall be granted an honorary certificate of licensure by the board without the payment of the usual renewal fee, but ~~such~~

honorary THAT certificate of licensure does not confer an exemption from any other requirement of this chapter.

~~G. A licensed pharmacist may request an inactive status license from the board if the licensee is not engaged in the practice of pharmacy or does not intend to engage in the practice of pharmacy for more than one year. The board shall issue an inactive status license to an applicant and waive continuing professional pharmacy education requirements on proper application and payment of the biennial registration fee.~~

H. The board may require a pharmacist ~~who holds an inactive status license, who applies for an active status license and~~ who has not been actively engaged in the practice of pharmacy for over one year to serve not more than four hundred hours in an internship training program approved by the board or its designee BEFORE THE PHARMACIST MAY RESUME THE ACTIVE PRACTICE OF PHARMACY.

I. AN APPLICANT MUST COMPLETE THE APPLICATION PROCESS WITHIN TWELVE MONTHS AFTER SUBMITTING THE APPLICATION.

Sec. 4. Title 32, chapter 18, article 2, Arizona Revised Statutes, is amended by adding section 32-1923.01, to read:

32-1923.01. Pharmacy technicians; pharmacy technician trainees; qualifications

A. AN APPLICANT FOR LICENSURE AS A PHARMACY TECHNICIAN MUST:

1. BE OF GOOD MORAL CHARACTER.
2. BE AT LEAST EIGHTEEN YEARS OF AGE.
3. HAVE A HIGH SCHOOL DIPLOMA OR THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA.
4. COMPLETE A TRAINING PROGRAM PRESCRIBED BY BOARD RULES.
5. PASS A BOARD APPROVED PHARMACY TECHNICIAN EXAMINATION.

B. AN APPLICANT FOR LICENSURE AS A PHARMACY TECHNICIAN TRAINEE MUST:

1. BE OF GOOD MORAL CHARACTER.
2. BE AT LEAST EIGHTEEN YEARS OF AGE.
3. HAVE A HIGH SCHOOL DIPLOMA OR THE EQUIVALENT OF A HIGH SCHOOL DIPLOMA.

Sec. 5. Section 32-1924, Arizona Revised Statutes, is amended to read:

32-1924. Licenses; fees; signatures

A. An applicant for licensure AS A PHARMACIST who passes the board ~~administered and~~ approved examinations shall pay the board an initial licensure fee of not more than ~~three~~ FIVE hundred dollars. ~~This fee includes the issuance of a wall certificate.~~

B. AN APPLICANT FOR LICENSURE AS A PHARMACIST, INTERN, PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE SHALL PAY A FEE PRESCRIBED BY THE BOARD THAT DOES NOT EXCEED FIFTY DOLLARS FOR ISSUANCE OF A WALL LICENSE. On payment of a fee of not more than fifty dollars, the board may issue a replacement WALL license to a licensee who requests a replacement because the original was damaged or destroyed, because of a change of name or for other good cause as prescribed by the board.

C. An applicant for licensure as ~~a pharmacy~~ AN intern shall pay a fee of not more than ~~twenty-five~~ SEVENTY-FIVE dollars~~, and the executive director shall issue a license to the applicant~~. A LICENSE ISSUED PURSUANT TO THIS SUBSECTION EXPIRES FIVE YEARS AFTER IT IS ISSUED. THE BOARD SHALL ADOPT RULES TO PRESCRIBE THE REQUIREMENTS FOR THE RENEWAL OF A LICENSE THAT EXPIRES BEFORE THE PHARMACY INTERN COMPLETES THE EDUCATION OR TRAINING REQUIRED FOR LICENSURE AS A PHARMACIST.

D. An applicant for reciprocal licensure as a pharmacist shall pay a fee of not more than five hundred dollars for the application and expense of making an investigation of the applicant's character, general reputation and pharmaceutical standing in the jurisdiction in which the applicant is licensed.

~~E. A pharmacist who requests the board to send the pharmacist's examination grades to another state shall pay a grade certification fee of not more than twenty-five dollars.~~

~~F.~~ E. All pharmacist licenses shall bear the signatures of the executive director and a majority of the members of the board

F. AN APPLICANT FOR LICENSURE AS A PHARMACY TECHNICIAN TRAINEE SHALL SUBMIT WITH THE APPLICATION A FEE PRESCRIBED BY THE BOARD THAT DOES NOT EXCEED ONE HUNDRED DOLLARS. A LICENSE ISSUED PURSUANT TO THIS SUBSECTION EXPIRES TWENTY-FOUR MONTHS AFTER IT IS ISSUED. THE BOARD SHALL ADOPT RULES TO ALLOW A PHARMACY TECHNICIAN TRAINEE WHO IS LICENSED PURSUANT TO THIS CHAPTER AND WHO DOES NOT COMPLETE THE TRAINING PROGRAM AND PASS A BOARD APPROVED PHARMACY TECHNICIAN LICENSURE EXAMINATION WITHIN THE LICENSURE PERIOD TO REAPPLY FOR LICENSURE NOT MORE THAN ONE TIME.

G. AN APPLICANT FOR LICENSURE AS A PHARMACY TECHNICIAN SHALL SUBMIT WITH THE APPLICATION A FEE PRESCRIBED BY THE BOARD THAT DOES NOT EXCEED ONE HUNDRED DOLLARS.

Sec. 6. Section 32-1925, Arizona Revised Statutes, is amended to read:

32-1925. Renewal of license of pharmacists, interns and pharmacy technicians; fees; expiration dates; penalty for failure to renew; continuing education

A. EXCEPT FOR INTERNS AND PHARMACY TECHNICIAN TRAINEES, the board shall assign all persons licensed under this chapter to one of two license renewal groups. A holder of a license certificate ending in an even number shall renew it biennially on or before November 1 of the even numbered year, two years from the last renewal date. A holder of a license certificate ending in an odd number shall renew it biennially on or before November 1 of the odd numbered year, two years from the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the license. The board shall vacate a suspension when the licensee pays all past due fees and penalties. Penalties shall not exceed three hundred fifty dollars. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. The board shall prorate the fee for a new license for the remaining full calendar months of the respective group to which the licensee is assigned.

C. A person shall not apply for license renewal more than sixty days before the expiration date of the license.

D. A person who is licensed as a pharmacist OR A PHARMACY TECHNICIAN and who has not renewed the license for five consecutive years shall furnish to the board satisfactory proof of fitness to be licensed as a pharmacist OR A PHARMACY TECHNICIAN, in addition to the payment of all ~~back~~ PAST DUE fees and penalties before being reinstated.

E. Biennial renewal fees for licensure shall be not more than:

1. For a pharmacist, ~~one~~ TWO hundred fifty dollars.

2. For a pharmacy ~~intern, twenty-five~~ TECHNICIAN, ONE HUNDRED dollars.

3. Duplicate RENEWAL license, ~~ten~~ TWENTY-FIVE dollars.

F. Fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for the following two fiscal years. Variation in a fee is not effective except at the expiration date of a license.

G. The board shall not renew a license for a pharmacist unless the pharmacist has complied with the mandatory continuing professional pharmacy education requirements of sections 32-1936 and 32-1937.

H. THE BOARD SHALL PRESCRIBE INTERN LICENSURE RENEWAL FEES THAT DO NOT EXCEED SEVENTY-FIVE DOLLARS. THE LICENSE OF AN INTERN WHO DOES NOT RECEIVE SPECIFIC BOARD APPROVAL TO RENEW THE INTERN LICENSE OR WHO RECEIVES BOARD APPROVAL TO RENEW BUT WHO DOES NOT RENEW AND PAY ALL REQUIRED FEES BEFORE THE LICENSE EXPIRATION DATE IS SUSPENDED AFTER THE LICENSE EXPIRATION DATE. THE BOARD SHALL VACATE A SUSPENSION IF THE LICENSEE PAYS ALL PAST DUE FEES AND PENALTIES. PENALTIES SHALL NOT EXCEED THREE HUNDRED FIFTY DOLLARS. THE BOARD MAY WAIVE COLLECTION OF A FEE OR PENALTY DUE AFTER SUSPENSION UNDER CONDITIONS ESTABLISHED BY THE BOARD.

I. THE BOARD SHALL NOT RENEW A LICENSE FOR A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE UNLESS THAT PERSON HAS A CURRENT BOARD APPROVED LICENSE.

Sec. 7. Section 32-1926, Arizona Revised Statutes, is amended to read:

32-1926. Notice of change of employer or home address; termination of responsibility

A. Except as prescribed in subsection B, a pharmacist, ~~or pharmacy~~ intern, PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE within ten days after changing that person's ~~place of practice~~ EMPLOYER or HOME address shall give written notice to the executive director of ~~that change and the location of the new practice, if any~~ THE NEW EMPLOYER OR NEW HOME ADDRESS.

B. PURSUANT TO BOARD RULE, a pharmacist designated as the pharmacist in charge for a permit issued under this chapter shall give immediate ~~written~~ notice of the INITIATION AND termination of such responsibility.

Sec. 8. Section 32-1927, Arizona Revised Statutes, is amended to read:

32-1927 Grounds for denial; revocation or suspension of pharmacist or intern license; other disciplinary action

A. The license of any pharmacist, pharmacy intern or graduate intern may be revoked or suspended or a pharmacist, ~~pharmacy intern~~ or ~~graduate~~ intern may be placed on probation by the board ~~when~~ IF:

1. The license is proved to the board to have been obtained by fraudulent means.

2. The licensee has been convicted of a felony.

3. The licensee is found by the board to be guilty of gross immorality.

4. The licensee reports for duty under the influence of alcohol or OTHER drugs.

5. The licensee is addicted to the use of alcohol or OTHER drugs to such a degree as to render the licensee unfit in the opinion of the board to practice the profession of pharmacy.

6. The licensee is found by psychiatric examination to be mentally unfit to practice the profession of pharmacy.

7. The licensee is found to be physically or mentally incapacitated to such a degree as to render the licensee unfit, in the opinion of the board, to practice the profession of pharmacy.

8. The licensee is found to be professionally incompetent to such a degree as to render the licensee unfit, in the opinion of the board, to practice the profession of pharmacy.

9. The license was issued through error.

10. The licensee is found by the board to be guilty of violating any Arizona or federal law, rule or regulation relating to the manufacture and distribution of drugs and devices or the practice of pharmacy.

11. The licensee is found by the board to have had ~~his~~ THE LICENSEE'S license to practice pharmacy denied, suspended or revoked in another jurisdiction and the license was not reinstated.

12. The licensee has committed an offense in another jurisdiction ~~which~~ THAT if committed in this state would be grounds for suspension or revocation.

13. The licensee knowingly files with the board any application, renewal or other document ~~which~~ THAT contains false or misleading information or the licensee gives false or misleading testimony to the board.

14. The licensee participates in an arrangement or agreement to allow a prescription order or a prescription medication to be left at, picked up from, accepted by or delivered to a place that is not licensed as a pharmacy. This paragraph does not prohibit a pharmacist or pharmacy from using an

employee or a common carrier to pick up prescription orders at or deliver prescription medications to the office or home of a medical practitioner, the residence of a patient or a patient's hospital ~~or medical facility~~.

15. THE LICENSEE COMMITTED A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE EVIDENCE OF THE COMMISSION.

16. THE LICENSEE VIOLATED OR ATTEMPTED TO VIOLATE, DIRECTLY OR INDIRECTLY, OR ASSISTED IN OR ABETTED THE VIOLATION OF OR CONSPIRED TO VIOLATE THIS CHAPTER.

17. THE LICENSEE VIOLATED A FORMAL ORDER, TERMS OF PROBATION, A CONSENT AGREEMENT OR A STIPULATION ISSUED OR ENTERED INTO BY THE BOARD OR ITS EXECUTIVE DIRECTOR PURSUANT TO THIS CHAPTER.

B. The license of any pharmacist~~, pharmacy intern~~ or ~~graduate~~ intern may be revoked or suspended or the pharmacist, pharmacy intern or graduate intern may be placed on probation or censured and a civil penalty of not more than ~~five hundred~~ ONE THOUSAND dollars for each offense may be imposed by the board ~~when~~ IF THE LICENSEE:

1. ~~The licensee~~ Is found by the board to be guilty of dispensing a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the orderer, or in the case of a prescription order, the medical practitioner. The conduct prohibited by this paragraph does not apply to substitutions authorized pursuant to section 32-1963.01.

2. ~~The licensee~~ Is found by the board, or is convicted in a federal or state court, of having violated federal or state laws or administrative rules pertaining to marijuana, prescription-only drugs, narcotics, dangerous drugs or controlled substances.

3. ~~The licensee~~ Is found by the board to be guilty of unprofessional conduct. For the purpose of this paragraph, the following acts constitute unprofessional conduct:

(a) Paying rebates or entering into an agreement for payment of rebates to a medical practitioner or any other person in the health field.

(b) Providing or causing to be provided to a medical practitioner prescription order blanks or forms bearing the pharmacist's or pharmacy's name, address or other means of identification.

(c) Claiming professional superiority in compounding or dispensing prescription orders.

(d) Fraudulently claiming to have performed a professional service.

(e) Fraudulently charging a fee for a professional service.

4. ~~The licensee~~ Is found by the board to have refused, without just cause, to allow authorized agents of the board to examine documents ~~which~~ THAT are required to be kept pursuant to this chapter or title 36.

5. ~~The licensee~~ Fails to report a change in the licensee's residency status as required under section 32-1926.01.

C. The board may deny a license to an applicant for the grounds prescribed in subsection A of this section.

D. A PHARMACIST, INTERN OR TECHNICIAN LICENSED PURSUANT TO THIS CHAPTER OR BY ANY OTHER JURISDICTION WHO HAS A LICENSE REVOKED OR SUSPENDED SHALL NOT OBTAIN A LICENSE AS AN INTERN OR PHARMACY TECHNICIAN OR WORK AS AN INTERN OR PHARMACY TECHNICIAN WITHOUT THE APPROVAL OF THE BOARD OR ITS DESIGNEE.

Sec. 9. Title 32, chapter 18, article 2, Arizona Revised Statutes, is amended by adding section 32-1927.01, to read:

32-1927.01. Pharmacy technicians; pharmacy technician trainees; disciplinary action

A. THE BOARD MAY REVOKE OR SUSPEND THE LICENSE OF A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE OR PLACE THE LICENSEE ON PROBATION IF THE BOARD DETERMINES THAT THE LICENSEE:

1. OBTAINED THE LICENSE BY FRAUD.

2. HAS BEEN CONVICTED OF A FELONY.

3. IS UNDER THE INFLUENCE OF ALCOHOL OR OTHER DRUGS WHILE AT WORK.

4. IS ADDICTED TO THE USE OF ALCOHOL OR OTHER DRUGS TO SUCH A DEGREE AS TO MAKE THE LICENSEE UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

5. IS FOUND BY PSYCHIATRIC EXAMINATION TO BE MENTALLY UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

6. IS FOUND TO BE PHYSICALLY OR MENTALLY INCAPACITATED TO SUCH A DEGREE AS TO MAKE THE LICENSEE UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

7. IS FOUND TO BE INCOMPETENT TO SUCH A DEGREE AS TO MAKE THE LICENSEE UNFIT TO SAFELY PERFORM THE LICENSEE'S EMPLOYMENT DUTIES.

8. OBTAINED THE LICENSE BY ERROR.

9. IS FOUND TO BE GUILTY OF VIOLATING ANY STATE OR FEDERAL LAW RELATING TO THE MANUFACTURE AND DISTRIBUTION OF PRESCRIPTION-ONLY DRUGS, CONTROLLED SUBSTANCE DRUGS OR MEDICAL DEVICES.

10. IS FOUND BY THE BOARD TO HAVE HAD A LICENSE AS A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE DENIED, SUSPENDED OR REVOKED IN ANOTHER JURISDICTION AND THE LICENSE WAS NOT REINSTATED.

11. HAS COMMITTED AN OFFENCE IN ANOTHER JURISDICTION THAT IF COMMITTED IN THIS STATE WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF THE LICENSE.

12. KNOWINGLY FILED WITH THE BOARD ANY APPLICATION OR DOCUMENT THAT CONTAINS FALSE OR MISLEADING INFORMATION OR GAVE FALSE OR MISLEADING TESTIMONY TO THE BOARD.

13. PARTICIPATED IN AN ARRANGEMENT OR AGREEMENT TO ALLOW A PRESCRIPTION ORDER OR A PRESCRIPTION MEDICATION TO BE LEFT AT, PICKED UP FROM, ACCEPTED BY OR DELIVERED TO A PLACE THAT IS NOT PERMITTED AS A PHARMACY. THIS PARAGRAPH DOES NOT PROHIBIT A PHARMACY TECHNICIAN OR PHARMACY TECHNICIAN TRAINEE FROM USING AN EMPLOYEE OR A COMMON CARRIER TO PICK UP PRESCRIPTION

ORDERS AT OR DELIVER PRESCRIPTION MEDICATIONS TO THE OFFICE OR HOME OF A MEDICAL PRACTITIONER, THE RESIDENCE OF A PATIENT OR A PATIENT'S HOSPITAL.

B. THE BOARD MAY REVOKE OR SUSPEND THE LICENSE OF A PHARMACY TECHNICIAN OR A PHARMACY TECHNICIAN TRAINEE, PLACE THE LICENSEE ON PROBATION, CENSURE THE LICENSEE OR IMPOSE A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH OFFENSE IF THE BOARD DETERMINES THAT THE LICENSEE:

1. VIOLATED FEDERAL OR STATE LAW RELATING TO MARIJUANA, PRESCRIPTION-ONLY DRUGS, NARCOTICS, DANGEROUS DRUGS OR CONTROLLED SUBSTANCES.

2. REFUSED, WITHOUT JUST CAUSE, TO ALLOW AUTHORIZED BOARD AGENTS TO EXAMINE DOCUMENTS THAT ARE REQUIRED TO BE KEPT PURSUANT TO THIS CHAPTER OR TITLE 36.

3. FAILED TO REPORT A CHANGE OF THE LICENSEE'S MAILING ADDRESS PURSUANT TO SECTION 32-1926.

4. IS GUILTY OF UNETHICAL CONDUCT. FOR THE PURPOSES OF THIS PARAGRAPH, "UNETHICAL CONDUCT" INCLUDES:

(a) PAYING REBATES OR ENTERING INTO AN AGREEMENT FOR PAYMENT OF REBATES TO A MEDICAL PRACTITIONER OR TO ANY OTHER PERSON IN THE HEALTH FIELD.

(b) PROVIDING OR CAUSING TO BE PROVIDED TO A MEDICAL PRACTITIONER PRESCRIPTION ORDER BLANKS OR FORMS BEARING THE NAME OF A PHARMACIST OR PHARMACY, OR AN ADDRESS OR OTHER MEANS OF IDENTIFICATION.

(c) FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PHARMACY SERVICE.

(d) FRAUDULENTLY CHARGING A FEE FOR A PHARMACY SERVICE.

C. THE BOARD MAY DENY A LICENSE TO AN APPLICANT FOR ANY OF THE REASONS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

Sec. 10. Section 32-1931, Arizona Revised Statutes, is amended to read:

32-1931. Permit fees; issuance; expiration; renewals

A. The board shall assign the permit of all persons or firms issued under this chapter to one of two permit renewal groups. A holder of a permit ending in an even number shall renew it biennially on or before November 1 of the even numbered year, two years from the last renewal date. A holder of a permit ending in an odd number shall renew it biennially on or before November 1 of the odd numbered year, two years from the last renewal date. Failure to renew and pay all required fees on or before November 1 of the year in which the renewal is due suspends the permit. The board shall vacate a suspension when the permittee pays penalties of not to exceed three hundred fifty dollars and all past due fees. The board may waive collection of a fee or penalty due after suspension under conditions established by a majority of the board.

B. The board shall prorate the fee for new permits for the remaining full calendar months of the respective group to which the permit is assigned.

C. Permit fees that are designated to be not more than a maximum amount shall be set by the board for the following two fiscal years beginning November 1. The board shall establish the fees approximately proportionate to the maximum fee allowed to cover the board's anticipated expenditures for

the following two fiscal years. Variation in a fee is not effective except at the expiration date of the permit.

D. Applications for permits shall be accompanied by the following biennial fees as determined by subsection C:

1. A nonprescription drug permit, not more than two hundred dollars. Permittees stocking thirty different nonprescription drug products or less shall be classified as category I ~~dealers~~ RETAILERS. Permittees stocking more than thirty different nonprescription drug products shall be classified as category II ~~dealers~~ RETAILERS. Both categories are subject to biennial permit fees established by the board pursuant to this chapter.

2. A drug manufacturer's permit, not more than one thousand dollars.

3. A pharmacy permit, not more than ~~four~~ FIVE hundred dollars.

4. A limited service pharmacy permit, not more than ~~four~~ FIVE hundred dollars.

5. A full service wholesale drug permit, not more than one thousand dollars.

6. A nonprescription drug wholesale permit, not more than five hundred dollars.

7. A drug repackager's permit, not more than one thousand dollars.

8. A compressed medical gas distributor permit, not more than two hundred dollars.

9. A compressed medical gas supplier permit, not more than one hundred dollars.

E. If an applicant is found to be satisfactory to the board, the executive director shall issue to the applicant a permit for each pharmacy, manufacturer, wholesaler or other place of business in which drugs are sold, manufactured, compounded, dispensed, stocked, exposed or offered for sale, for which application is made.

F. Permits issued under this section are not transferable.

G. If a permittee does not apply for renewal, the permit expires pursuant to subsection A. A person may activate and renew an expired permit by filing the required application and fee. Renewal thirty days after the expiration date of a permit may be made only on payment of the required BIENNIAL RENEWAL fee, all ~~back~~ PAST DUE fees and a penalty of ~~twenty dollars~~ ONE-HALF OF THE AMOUNT OF THE APPLICABLE BIENNIAL RENEWAL FEE. THE BOARD MAY WAIVE THE COLLECTION OF A FEE OR PENALTY DUE AFTER SUSPENSION PURSUANT TO CONDITIONS PRESCRIBED BY THE BOARD.

Sec. 11. Section 32-1932, Arizona Revised Statutes, is amended to read:

32-1932. Denial, revocation or suspension of permits; probation; civil penalty

A. The board, after notice and a hearing, may impose a civil penalty of not more than one thousand dollars for each offense and deny, suspend or revoke any permit issued under this chapter or place a permittee on probation if at any time any of the following occurs:

1. On examination or inspection it is found that the place is not being conducted according to the federal act and this chapter relating to the manufacturing, sale and distribution of drugs, devices, poisons or hazardous substances.

2. The applicant or permittee intends to sell, transfer or distribute or offer for sale, transfer or distribution or sells, transfers, distributes or dispenses or offers for sale, transfer or distribution an imitation controlled substance, imitation over-the-counter drug or imitation prescription-only drug as defined in section 13-3451.

3. A permittee fails to completely comply with a board order imposed pursuant to a hearing unless that order is under appeal or judicial review.

4. The applicant or permittee provides materially false or misleading information or omits material information in an application for a permit or the renewal of a permit.

5. A community or limited service pharmacy permittee distributes more than five per cent of its prescription-only drug inventory as a wholesale distribution as defined in board rules.

6. The applicant or permittee fails to:

(a) Provide the board or an authorized federal or state official conducting a site investigation, inspection or audit with access to any place for which a permit has been issued or for which an application for a permit has been submitted.

(b) Promptly produce on the request of the official conducting the site investigation, inspection or audit any book, record or document.

7. The applicant or permittee lacks good moral character or has committed any act that would demonstrate actual or potential unfitness to hold a permit in light of the public safety and welfare and the act is substantially related to the qualifications, functions or duties of a permittee.

8. The applicant or permittee has been convicted of a felony offense or of any offense involving any narcotic drug, dangerous drug or precursor chemical.

9. The permittee fails to maintain effective controls against the diversion of precursor chemicals to unauthorized persons or entities.

10. The applicant or permittee violates any state or federal reporting or record keeping requirements on transactions relating to precursor chemicals.

B. If the board determines that a person has violated this chapter it may also impose an additional civil penalty to cover the costs associated with the investigation, formal interview and hearing.

C. If the board finds there is an imminent and immediate danger to the health, welfare and safety of the public it may apply to the superior court for a temporary restraining order prohibiting the specific acts complained of by the board, pending a hearing to be held by the board within ten days from the issuance of the order.

D. To safeguard and protect the public's health, the board may suspend or revoke a pharmacy permit or place a permittee on probation for:

1. Distributing premiums or rebates of any kind in connection with the sale of prescription medication, other than to the prescription medication recipient.

2. Advertising drugs or devices, or services pertaining to drugs or devices, ~~which~~ THAT is untrue or misleading in any particular, and ~~which~~ THAT is known, or ~~which~~ THAT by the exercise of reasonable care should be known, to be untrue or misleading.

~~3. Advertising prescription-only drugs or controlled substances by reference to the treatment of a condition.~~

~~4.~~ 3. Failing to notify the board of a change of ownership, management or pharmacist in charge.

~~5.~~ 4. Wilfully making a false report or record required by this chapter, or required by federal or state laws pertaining to drugs, devices, poisons or hazardous substances or required for the payment for drugs, devices, poisons or hazardous substances, or for services pertaining to such drugs or substances.

E. Except as provided in section 32-1904 and subsection A of this section, the board does not have authority to deny or restrict the right of any permittee to sell nonprescription drugs.

F. This section does not modify or establish prices or fees.

Sec. 12. Section 32-1932.01, Arizona Revised Statutes, is amended to read:

32-1932.01. Substance abuse treatment and rehabilitation program; private contract; funding

A. The board may establish a program for the treatment and rehabilitation of ~~pharmacists, and interns~~ LICENSEES who are impaired by alcohol or drug abuse. This program shall include education, intervention, therapeutic treatment and posttreatment monitoring and support.

B. The board may contract with other organizations to operate the program established pursuant to subsection A of this section. A contract with a private organization shall include the following requirements:

1. Periodic reports to the board regarding treatment program activity.

2. Release to the board ~~upon~~ ON motion and written request of all treatment records.

3. Quarterly reports to the board, by case number, regarding each participant's diagnosis, prognosis and recommendations for continuing care, treatment and supervision.

4. Immediate reporting to the board of the name of an impaired ~~pharmacist or pharmacy intern,~~ LICENSEE who the treating organization believes to be a danger to ~~the public~~ SELF or ~~himself~~ OTHERS.

5. Reports to the board, as soon as possible, of the name of a participant who refuses to submit to treatment or whose impairment is not substantially alleviated through treatment.

C. The board may allocate an amount of not to exceed twenty dollars from each fee it collects from biennial renewal licenses pursuant to section 32-1925 for the operation of the program established by this section.

D. A ~~pharmacist or intern~~ LICENSEE who is impaired by alcohol or drug abuse may enter into a stipulation order with the board, or the ~~pharmacist or intern~~ LICENSEE may be placed on probation or be subject to other action as provided by law.

Sec. 13. Section 32-1933, Arizona Revised Statutes, is amended to read:

32-1933. Display of license or permit

A. The holder of a permit granted under the provisions of this chapter shall conspicuously display it in the ~~place~~ LOCATION to which it applies, and the ~~pharmacist or pharmacy intern~~ LICENSEE who practices in ~~such place~~ THAT LOCATION shall display conspicuously ~~his~~ THE LICENSEE'S WALL license ~~or duplicate license~~ in the part of ~~such place~~ THAT LOCATION THAT IS usually occupied by the public or ~~which~~ THAT is conspicuously visible to the public.

B. A LICENSEE SHALL POST THE LICENSEE'S CURRENT RENEWAL LICENSE AND DUPLICATE CURRENT RENEWAL LICENSE, IF PRACTICING IN MORE THAN ONE LOCATION, IN THE PRACTICE SITE FOR INSPECTION BY THE BOARD OR ITS DESIGNEE. THE LICENSEE IS NOT REQUIRED TO POST THE CURRENT RENEWAL LICENSE OR DUPLICATE CURRENT RENEWAL LICENSE IN PUBLIC VIEW. THE LICENSEE SHALL NOT USE A COPY OF THE DOCUMENT.

~~B.~~ C. If a licensee practices in more than one place, the board may issue one or more duplicate CURRENT RENEWAL licenses to ~~him~~ THE LICENSEE on payment of a fee of not more than ~~ten~~ TWENTY-FIVE dollars for each duplicate CURRENT RENEWAL license.

Sec. 14. Section 32-1934, Arizona Revised Statutes, is amended to read:

32-1934. Pharmacy operated by hospital

A. A pharmacy operating in connection with a hospital shall comply with all the provisions of this chapter requiring registration and regulation of pharmacies and with ~~regulations of the~~ board RULES.

B. A pharmacy operating in connection with a hospital shall also meet the following requirements:

1. In hospitals with fifty beds or more, the pharmacy shall be under the continuous supervision of a pharmacist during the time it is open for pharmacy services, EXCEPT THAT THE BOARD BY RULE MAY ESTABLISH REQUIREMENTS TO ALLOW A PHARMACIST WHO IS ENGAGED IN HOSPITAL BUSINESS TO BE IN OTHER AREAS OF THE HOSPITAL THAT ARE LOCATED OUTSIDE THE PHARMACY.

2. In hospitals with less than fifty beds, with the written approval and recommendations of the board, the services of a pharmacist shall be required on a part-time basis according to the needs of the hospital, provided that ~~under no circumstances shall such~~ THIS approval DOES NOT permit the compounding, manufacturing, dispensing, labeling, packaging or processing of drugs by other than a pharmacist.

3. In the pharmacist's absence from the hospital, the supervisory registered nurse may obtain from the pharmacy necessary doses of ~~such~~ drugs ~~as~~ THAT are ordered by a medical practitioner and THAT ARE needed by a patient in an emergency, according to procedures recommended and approved by the board for each hospital.

4. All drugs and medications furnished from the pharmacy to patients ~~upon~~ ON discharge from the hospital shall be dispensed by a pharmacist and ~~such~~ THE medication shall be properly labeled.

5. The pharmacist in charge shall initiate procedures to provide for the administrative and technical guidance in all matters pertaining to the acquiring, stocking, record keeping and dispensing of drugs and devices.

Sec. 15. Section 32-1936, Arizona Revised Statutes, is amended to read:

32-1936. Mandatory continuing professional pharmacy education

A. All pharmacists licensed in this state shall satisfactorily complete approved courses of continuing professional pharmacy education or continue their education by other means in accordance with rules adopted by the board ~~prior to renewal of~~ BEFORE RENEWING a license.

B. The ~~Arizona~~ board ~~of pharmacy~~ BY RULE shall establish ~~by rule, no later than September 1, 1981,~~ the form and content of courses for continuing professional pharmacy education and the number of hours required for renewal of a license.

Sec. 16. Section 32-1963.01, Arizona Revised Statutes, is amended to read:

32-1963.01. Substitution for prescription drugs; requirements; label; definitions

A. ~~When~~ IF a medical practitioner prescribes a brand name drug and ~~permits~~ DOES NOT INDICATE AN INTENT TO PREVENT substitution AS PRESCRIBED IN SUBSECTION D OF THIS SECTION, a pharmacist may fill the prescription with a generic equivalent drug.

B. Any pharmacy personnel shall notify the person presenting the prescription of the amount of the price difference between the brand name drug prescribed and the generic equivalent drug, if both of the following apply:

1. The medical practitioner ~~permits~~ DOES NOT INDICATE AN INTENT TO PREVENT substitution with a generic equivalent drug.

2. The transaction is not subject to third party reimbursement.

C. ~~When a substitution is made pursuant to this section, the pharmacist shall note on the prescription and include on the label of the container the name of the dispensed drug and the name of the manufacturer or distributor of the dispensed generic equivalent drug or abbreviations of such information approved by the board.~~ The pharmacist shall place on the container the name of the drug dispensed followed by the words "generic equivalent for" followed by the brand or trade name of the product that is being replaced by the generic equivalent. The pharmacist shall include the

brand or trade name on the container or label of any contact lenses dispensed pursuant to this chapter.

D. ~~Every prescription form in this state shall contain two signature lines for the prescriber. The right side of the prescription form shall contain under the signature line the phrase "substitution permissible". The left side shall contain under the signature line the phrase "dispense as written". In the instance of an oral prescription, the pharmacist shall note the prescriber's instructions on the face of the prescription.~~ A PRESCRIPTION GENERATED IN THIS STATE MUST BE DISPENSED AS WRITTEN ONLY IF THE PRESCRIBER WRITES OR CLEARLY DISPLAYS "DAW", "DISPENSE AS WRITTEN", "DO NOT SUBSTITUTE", "MEDICALLY NECESSARY" OR ANY STATEMENT BY THE PRESCRIBER THAT CLEARLY INDICATES AN INTENT TO PREVENT SUBSTITUTION ON THE FACE OF THE PRESCRIPTION FORM. A prescription from out of state or from agencies of the United States government ~~need not have two signature lines and is required~~ to MUST be dispensed as written only if the prescriber ~~has stated~~ WRITES OR CLEARLY DISPLAYS "do not substitute", "dispense as written" or "medically necessary" or any statement by the prescriber ~~which~~ THAT clearly indicates an intent to prevent substitution on the face of the prescription form.

E. This section ~~shall apply~~ APPLIES to all prescriptions, including those presented by or on behalf of persons receiving state or federal assistance payments.

F. An employer or agent of an employer of a pharmacist shall not require the pharmacist to dispense any specific generic equivalent drug or substitute any specific generic equivalent drug for a brand name drug against the professional judgment of the pharmacist or the order of the prescriber.

G. The liability of a pharmacist in substituting according to this section shall be no greater than that which is incurred in the filling of a generically written prescription. This subsection does not limit or diminish the responsibility for the strength, purity or quality of drugs provided in section 32-1963. The failure of a prescriber to specify that no substitution is authorized does not constitute evidence of negligence.

H. A pharmacist may not make a substitution pursuant to this section unless the manufacturer or distributor of the generic drug has shown that:

1. All products dispensed have an expiration date on the original package.

2. The manufacturer or distributor maintains recall and return capabilities for unsafe or defective drugs. ~~and a statement describing such capabilities is on file with the board of pharmacy.~~

~~3. The manufacturer or distributor has a liability statement relative to its drug products on file with the board of pharmacy.~~

I. The labeling and oral notification requirements of this section do not apply to pharmacies serving patients in a health care institution as defined in section 36-401. However, in order for this exemption to apply to hospitals, the hospital must have a formulary to which all medical

practitioners of that hospital have agreed and ~~which~~ THAT is available for inspection by the board.

~~J. A medical practitioner shall write a drug order on a form which provides the practitioner with a means of conspicuously indicating whether a generic equivalent drug may be used.~~

~~K.~~ J. The board by rule shall establish a list of drugs that shall not be used by dispensing pharmacists as generic equivalents for substitution.

~~L.~~ K. In this section:

1. "Brand name drug" means a drug with a proprietary name assigned to it by the manufacturer or distributor.

2. "Formulary" means a list of medicinal drugs.

3. "Generic equivalent" or "generically equivalent" means a drug ~~which~~ THAT has an identical amount of the same active chemical ingredients in the same dosage form, ~~which~~ THAT meets applicable standards of strength, quality and purity according to the United States pharmacopeia or other nationally recognized compendium and ~~which~~ THAT, if administered in the same amounts, will provide comparable therapeutic effects. Generic equivalent or generically equivalent does not include a drug that is listed by the federal food and drug administration as having unresolved bioequivalence concerns according to the administration's most recent publication of approved drug products with therapeutic equivalence evaluations.

Sec. 17. Section 32-1964, Arizona Revised Statutes, is amended to read:

32-1964. Record of prescription orders; inspections; confidentiality

A. Every proprietor, manager or pharmacist in charge of a pharmacy shall keep in the pharmacy a book or file in which that person places the original of every prescription order of drugs, DEVICES or replacement soft contact lenses that ~~is~~ ARE compounded or dispensed at the pharmacy. This information shall be serially numbered, dated and filed in the order in which the ~~prescription orders~~ DRUGS, DEVICES OR REPLACEMENT SOFT CONTACT LENSES were compounded or dispensed. A prescription order shall be kept for at least ~~three~~ SEVEN years. The proprietor, manager or pharmacist shall produce this book or file in court or before any grand jury on lawful order. THE BOOK OR FILE OF ORIGINAL PRESCRIPTION ORDERS IS OPEN FOR INSPECTION AT ALL TIMES BY THE PRESCRIBING MEDICAL PRACTITIONER, THE BOARD AND ITS AGENTS AND OFFICERS OF THE LAW IN PERFORMANCE OF THEIR DUTIES.

B. The board, by rule, shall permit pharmacies to maintain the book or file of all original prescription orders by means of electronic media or image of the original prescription order maintained in a retrievable format in a form that contains information the board requires to provide an adequate record of drugs, DEVICES or replacement soft contact lenses compounded or dispensed.

C. The board, by rule, shall require a similar book or file for a hospital pharmacy in a form that contains information the board requires to provide an adequate record of drugs compounded or dispensed. A PRESCRIPTION ORDER OR MEDICATION ORDER MUST BE KEPT FOR AT LEAST SEVEN YEARS. THE ADMINISTRATOR, MANAGER OR PHARMACIST MUST PRODUCE THIS BOOK OR FILE IN COURT OR BEFORE ANY GRAND JURY ON LAWFUL ORDER. The book or file of original prescription orders OR MEDICATION ORDERS is open for inspection at all times by the PRESCRIBING medical practitioner ~~prescribing~~, the board AND ITS AGENTS and officers of the law in performance of their duties.

D. A PHARMACIST, PHARMACY PERMITTEE OR PHARMACIST IN CHARGE SHALL COMPLY WITH APPLICABLE STATE AND FEDERAL PRIVACY STATUTES AND REGULATIONS WHEN RELEASING PATIENT PRESCRIPTION INFORMATION.

Sec. 18. Section 32-1968, Arizona Revised Statutes, is amended to read:

32-1968. Dispensing prescription-only drug; prescription orders; renewals; labels; misbranding; dispensing soft contact lenses

A. A prescription-only drug shall be dispensed only under one of the following conditions:

1. By a medical practitioner in conformance with section 32-1921.

2. On a written prescription order.

3. On an oral prescription order ~~which~~ THAT is reduced promptly to writing and filed by the pharmacist.

4. By renewing any written or oral prescription order if a renewal is authorized by the prescriber either in the original prescription order or by an oral order that is reduced promptly to writing and filed by the pharmacist.

B. A prescription order shall not be renewed if it is either:

1. Ordered by the prescriber not to be renewed.

2. More than one year since it was originally ordered.

C. A prescription order shall contain the date it was issued, the name and address of the person for whom or owner of the animal for which the drug is ordered, the name, strength, DOSAGE FORM and quantity of the drug ordered and directions for its use. A written prescription order shall contain the printed name of the prescriber.

D. Any drug dispensed in accordance with subsection A of this section is exempt from the requirements of section 32-1967, except subsection A, paragraphs 1, 10 and 11 and the packaging requirements of subsection A, paragraphs 7 and 8, if the drug container bears a label containing the name and address of the dispenser, serial number, date of dispensing, name of the prescriber, name of the patient, or, if an animal, the name of the owner of the animal and the species of the animal, directions for use and cautionary statements, if any, contained in the order. This exemption does not apply to any drug dispensed in the course of the conduct of a business of

dispensing drugs pursuant to diagnosis by mail OR THE INTERNET or to a drug dispensed in violation of subsection A of this section.

E. The board may also by rule require additional information on the label of prescription medication ~~which~~ THAT the board believes to be necessary for the best interest of the public's health and welfare.

F. A prescription-only drug or a controlled substance that requires a prescription order is deemed to be misbranded if, at any time ~~prior to~~ BEFORE dispensing, its label fails to bear the statement "Rx only". A drug to which subsection A of this section does not apply is deemed to be misbranded if, at any time ~~prior to~~ BEFORE dispensing, its label bears the caution statement quoted in this subsection.

G. A pharmacist may fill a prescription order for soft contact lenses only as provided in this chapter.

Sec. 19. Section 32-1969, Arizona Revised Statutes, is amended to read:

32-1969. Filling Mexican and Canadian prescription orders; records; exception

A. This chapter does not prohibit a pharmacist or ~~a pharmacy~~ AN intern UNDER A PHARMACIST'S SUPERVISION from filling a NEW WRITTEN prescription order for a drug or device issued by a medical practitioner licensed by the appropriate licensing board of Canada or the Republic of Mexico. ~~if:~~

~~1. The prescription is written on a form issued to the practitioner by the department of health where the practitioner is licensed and has a practice.~~

~~2. The medical practitioner is licensed by the appropriate licensing board of Canada or the Republic of Mexico as shown on a roster of licensed practitioners provided by the Arizona state board of pharmacy.~~

B. The proprietor, manager or pharmacist in charge of a pharmacy shall keep a separate record of prescriptions filled pursuant to this section. ~~The board may prescribe rules for the periodic submission of these prescription orders to the board.~~

C. A pharmacist or ~~pharmacy~~ intern shall not fill a prescription order issued by a medical practitioner licensed by the appropriate licensing board of Canada or the Republic of Mexico for a controlled substance as defined pursuant to title 36, chapter 27, article 2.

Sec. 20. Section 32-1996, Arizona Revised Statutes, is amended to read:

32-1996. Violations; classification

A. A person violating any provision of this chapter without intent to defraud or mislead, not involving section 32-1965, paragraph 4, is guilty of a class 2 misdemeanor. If the violation is made with the intent to defraud or mislead, a person is guilty of a class 5 felony.

B. A person who violates section 32-1965, paragraph 4 is guilty of a class 2 felony.

C. Any person who secures a license or permit for ~~himself~~ THAT PERSON or for another person by knowingly making a false representation, who fraudulently ~~represents himself~~ CLAIMS to be licensed as a pharmacist or pharmacy intern within the meaning of this chapter or who knowingly engages in the practice of pharmacy without a license is guilty of a class 2 misdemeanor.

D. A PERSON WHO SECURES A LICENSE AS A PHARMACY TECHNICIAN OR A PHARMACY TECHNICIAN TRAINEE FOR THAT PERSON OR FOR ANOTHER PERSON BY KNOWINGLY MAKING A FALSE REPRESENTATION, WHO FRAUDULENTLY CLAIMS TO BE LICENSED AS A PHARMACY TECHNICIAN OR A PHARMACY TECHNICIAN TRAINEE OR WHO KNOWINGLY PERFORMS THE DUTIES OF A PHARMACY TECHNICIAN OR A PHARMACY TECHNICIAN TRAINEE WITHOUT A LICENSE IS GUILTY OF A CLASS 2 MISDEMEANOR.

~~D.~~ E. A person who dispenses a human growth hormone in violation of this chapter is guilty of a class 6 felony.

~~E.~~ F. A court convicting any person for a violation of this chapter shall, immediately after the date of conviction, send a complete copy of the record of the conviction, including the person's name and offense committed, to the executive director of the board.

Sec. 21. Requirements for enactment; two-thirds vote

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.

APPROVED BY THE GOVERNOR APRIL 17, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2003.

Passed the House April 10, 2003,

by the following vote: 49 Ayes,

9 Nays, 2 Not Voting

Article IX, Section 22

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 17, 2003,

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

with Article IX, section 22

Ken Bennett
President of the Senate

Charlene Bolton
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 2003

at 11:50 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 17 day of

April, 2003,

at 4:05 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2003

at 11:18 o'clock A. M.

Jan K. Brewer
Secretary of State

S.B. 1301